

# **Exhibit 146**

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1                   UNITED STATES DISTRICT COURT  
2                   SOUTHERN DISTRICT OF NEW YORK  
3                   MASTER DOCKET 18-MD-2865 (LAK)  
4                   CASE NO. 18-CV-09797

5                   IN RE: )  
6                   CUSTOMS AND TAX ADMINISTRATION OF )  
7                   THE KINGDOM OF DENMARK )  
8                   (SCATTEFORVALTNINGEN) TAX REFUND )  
9                   SCHEME LITIGATION )  
10                  )

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12

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14                  REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL

15                  EXAMINATION OF

16                  PETER WELLS

17                  DATE: May 27, 2021

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25                  REPORTED BY: MICHAEL FRIEDMAN, CCR

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1           A     I recall that Michael Ben-Jacob was  
2       the partner in charge of the project, and  
3       that he had -- and that there had been  
4       discussions that I do recall him being  
5       involved in about beneficial ownership.

6           Q     And what do you recall generally  
7       about the discussions with Mr. Ben-Jacob as  
8       to whether the plan could accurately  
9       represent that it was the beneficial owner?

10          A     I recall that it was an issue that  
11       was being actively discussed.

12          Q     And do you recall the conclusion to  
13       that discussion?

14          A     I don't recall specifically the  
15       conclusion to that discussion.

16          Q     Do you recall generally what the  
17       conclusion of that discussion was?

18          A     My recollection is generally the  
19       conclusion was that -- that there was comfort  
20       making that -- making that representation.

21          Q     Do you recall what the basis for  
22       that conclusion was?

23          A     I do not recall.

24          Q     And do you recall what the comfort  
25       was for the basis for making that

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1 A I don't recall.

2 Q If you turn to Exhibit 3108?

3 MR. MAGUIRE: Mark this as 3108.

4 (Whereupon the above mentioned was  
5 marked for Identification.)

6 Q Is this an e-mail you received from  
7 Adam LaRosa on or about May 11 of 2013?

8 A Yes, this looks like an e-mail from  
9 Adam LaRosa to me on Saturday, May 11, 2013.

10 Q The subject is "FBAR Reporting."  
11 What is that?

12 A FBAR is a Treasury reporting form.

13 Q And did Kaye Scholer perform  
14 services for the Argre group in connection  
15 with FBAR reporting?

16 MR. DEWEY: Objection.

17 A Kaye Scholer generally provided  
18 advice to clients about FBAR reporting.  
19 Argre Management was one of the clients that  
20 we -- that I recalled providing FBAR advice  
21 to from time to time.

22 Q In the e-mail, it says, "Peter, in  
23 addition to the other e-mail I sent just now,  
24 here is an example of an account that  
25 actually did have cash in it."

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1 excuse me.

2 It may have been the case that  
3 FBARs were -- the thresholds for FBAR filings  
4 may not have been met. And so we were  
5 providing a statement indicating that even if  
6 it didn't technically meet the definition of  
7 the threshold filings, we were filing anyway.

8 Q So when you say "the threshold,"  
9 there's -- the FBAR had a -- had sort of a  
10 minimum amount that you had to have in your  
11 account before you were required to submit an  
12 FBAR.

13 Is that right?

14 A Among other things, yes.

15 Q And if the value of the account was  
16 below that threshold, then there was no  
17 requirement to file?

18 A That is one of the requirements,  
19 yes.

20 Q And the purpose of this statement  
21 was to explain that you were filing anyway  
22 even though the value of the account was  
23 below the -- that minimum threshold?

24 A That's correct.

25 Q If you could turn to Exhibit 2240?

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1 coming up with names for the entities.

2 Q If you turn to Exhibit 2188, is  
3 this an e-mail --

4 A Yeah.

5 Q -- that you received from Mr. Van  
6 Merkensteijn around June 19, 2014?

7 A Yes, it appears to be an e-mail  
8 from John Van Merkensteijn June 19, 2014.

9 Q If you go to the last page of the  
10 exhibit, you'll see Mr. Van Merkensteijn  
11 e-mails Amy Gregory.

12 A (Witness reviewing.)

13 I see that e-mail, yes.

14 Q Who is Amy Gregory?

15 A She was a paralegal at  
16 Kaye Scholer.

17 Q Mr. Van Merkensteijn says, "Amy, I  
18 think we left you with the task of coming up  
19 with 30 dissimilar random names for LLC and  
20 plans."

21 Do you see that?

22 A I do.

23 Q And then you respond on the prior  
24 page.

25 Do you see that?

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1 A I do.

2 Q You say, "John, as discussed, here  
3 is our stab at 30 names for the LLCs," and  
4 you list 30 names.

5 Right?

6 A That's correct.

7 Q And who came up with those names?

8 A My recollection is that I came up  
9 with a number of the names.

10 Q Okay. Who came up with the rest of  
11 the names?

12 A I don't recall.

13 Q Did you come up with all of the  
14 names?

15 A I don't recall.

16 Q How did you come up with the names?

17 A I don't recall specifically how I  
18 came up with the names, other than just  
19 thinking of them.

20 Q Was the process random?

21 MR. DEWEY: Objection.

22 A I don't know what you mean by  
23 "random."

24 Q Well, you see, Mr. Van Merkenstein  
25 referred to "coming up with 30 dissimilar

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1 Q Do you recall that SKAT paid the  
2 reclaim agents, and then Acupay or Goal would  
3 send the money on to the plan?

4 A I don't recall that.

5 Q Mr. Markowitz goes on to say, "The  
6 savings account is solely for the plan, and  
7 that's where its share of the profit goes."

8 Do you see that?

9 A I do.

10 Q So did you understand that each  
11 plan had a trading account as nominee or  
12 agent for the partnership and a checking  
13 account as nominee or agent for the  
14 partnership?

15 MR. DEWEY: Objection.

16 A I don't recall what I understood.

17 Q If you could turn, sir, to  
18 Exhibit 3115?

19 MR. MAGUIRE: Mark this as 3115.

20 (Whereupon the above mentioned was  
21 marked for Identification.)

22 Q Is this an e-mail that you sent on  
23 or about July 25, 2014?

24 A It appears to be an e-mail I sent  
25 to Richard Markowitz on July 25, 2014.

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1 Q You'll see the subject is  
2 "Brokerage Services with Ballygate."

3 What was Ballygate?

4 A I don't recall.

5 Q You say, "Richard, we have  
6 completed the draft Ballygate questionnaires  
7 for all the plans. Attached is a sample for  
8 Cavus for your review."

9 What was Cavus?

10 A I believe Cavus was an LLC and  
11 plan.

12 Q You say, "Obviously, the  
13 substantive questions were mirrored on the  
14 Solo OPL."

15 Is "OPL" Old Park Lane?

16 A I believe that is correct.

17 Q And then attached we have the  
18 "Ballygate Capital, Limited, Institutional  
19 Customer, New Account" form.

20 Right?

21 A Correct.

22 Q And were all these new customers,  
23 all the plans, were they signed up as  
24 institutional customers?

25 A I don't recall.

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1 Q And you'll see Section A is the  
2 Cavus Systems LLC Roth 401(k) Plan as the  
3 customer?

4 A That's what the form says, yes.

5 Q And that's the -- that was the  
6 plan.

7 Right?

8 A That's what the form says, yes,  
9 correct.

10 Q So the plan was opening a customer  
11 account with Ballygate, the broker.

12 Right?

13 A I don't recall the specifics.

14 Q But you see that this customer here  
15 is Cavus Systems plan.

16 Right?

17 A The form says they are the  
18 customer, correct.

19 Q And down at the bottom of this  
20 page, it has the "Place of Business Address."

21 Right?

22 A Correct.

23 Q And the address is care of Cavus  
24 Systems LLC, 425 Park Avenue.

25 What address is that?

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1 A That was Kaye Scholer's address.

2 Q And was Kaye Scholer's address used  
3 for all of these plans?

4 A I don't recall if it was or wasn't.

5 Q Why was Kaye Scholer's address  
6 used?

7 A I think for administrative  
8 assistance, administrative use.

9 Q And then, how did Kaye Scholer  
10 handle the mail to the plans at its office  
11 address?

12 A I don't recall.

13 Q Did you get the mail? Was it  
14 routed to you?

15 A I don't recall.

16 Q Do you know who had access to the  
17 mail for the plans that came in to  
18 Kaye Scholer's offices?

19 A I don't recall knowing one way or  
20 the other.

21 Q Now, if you turn to the page that's  
22 Bates numbered 676, you'll see there's a box  
23 around the middle of the page that says  
24 "Source of Funds for Investments or Trading?"

25 It says, "Any contributions made by

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1 specific line of questioning?

2 Q Generally.

3 A I don't recall if I prepared any  
4 letters or forms of letters for them.

5 Q What about the letter -- the last  
6 letter, the RAK Investment Trust letter?

7 Do you have any recollection of having any  
8 role in preparing that?

9 A I don't have any recollection  
10 either way.

11 Q If you could turn to Exhibit 3123?

12 MR. MAGUIRE: Mark this as 3123.

13 (Whereupon the above mentioned was  
14 marked for Identification.)

15 A Okay.

16 Q Is this an e-mail you received from  
17 Mr. Markowitz on or about June 22?

18 A (Witness reviewing.)

19 Yes, it appears to be a letter from  
20 Routt Pension.com from June 22, 2015.

21 Q And that's from Mr. Markowitz, is  
22 your understanding.

23 Right?

24 A I believe so, yes.

25 Q And the subject is "Form SLT

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1 Holdings?"

2 A That's correct. That's what the  
3 subject is.

4 Q What is -- what does that refer to?

5 A Form SLT was one of the Treasury  
6 forms.

7 Q And did you prepare any of those  
8 forms?

9 A My recollection is I worked  
10 with -- in conjunction with others to prepare  
11 those forms.

12 Q And who are the people that you  
13 worked in conjunction with?

14 A So my recollection is, among  
15 others, it would have been the principals and  
16 employees of Argre, as well as Michael  
17 Ben-Jacob, and some other associates at  
18 Kaye Scholer.

19 Q And after the establishment of  
20 Maple Point and before you left Kaye Scholer  
21 to go to -- to become employed at Maple Point  
22 during that period of time when you were  
23 still at Kaye Scholer, did you work on  
24 any -- filing any forms with the Fed or the  
25 Treasury?

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1 MR. DEWEY: I'm sorry. Can you --

2 A That confused me. Can you give  
3 that to me again, please?

4 Q Yeah, just in terms of time frame,  
5 I'm asking you about the time when you were  
6 at Kaye Scholer.

7 A Yeah.

8 Q But at some point while you were  
9 still at Kaye Scholer, Maple Point was being  
10 set up.

11 Correct?

12 A That is correct.

13 Q Now, you joined and became employed  
14 by Maple Point after it had already been  
15 operating for a while?

16 A That's correct.

17 Q So during the time that you were at  
18 Kaye Scholer, did you work with anyone at  
19 Maple Point in connection with any Fed or  
20 Treasury forms or filings?

21 A I don't recall.

22 Q During the time you were at  
23 Kaye Scholer, during this time -- we're  
24 looking at Exhibit 3123 -- did you understand  
25 that you needed this information from

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1 Mr. Markowitz in order to prepare the  
2 Form SLT holdings?

3 THE WITNESS: I didn't catch the  
4 end of his question.

5 Q Let me start over.

6 A Sure.

7 Q Did you understand Mr. Markowitz  
8 was providing this information in  
9 Exhibit 3123 so you could prepare the  
10 Form SLT?

11 A I don't recall what I -- what my  
12 understanding was at the time. But  
13 certainly, the information, I -- we needed  
14 the information provided to us from the  
15 clients in order to prepare the Form SLT.

16 Q And if you turn to Exhibit 3122?

17 MR. MAGUIRE: Mark this as 3122.

18 (Whereupon the above mentioned was  
19 marked for Identification.)

20 Q This is a Form SLT for the Avanix  
21 Management LLC Roth 401(K) Plan?

22 A Yes, that appears to be the case.

23 Q And is this for the date as of  
24 May 29, 2015?

25 A Yes, that's what it appears to say.